

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN BIHL,

Plaintiff,

No. 08-10614

v.

Hon. John Corbett O'Meara

CITY OF HAMTRAMCK, *et al.*,

Defendants.

ORDER OF PARTIAL DISMISSAL

On February 12, 2008, Plaintiff filed a complaint setting forth the following counts:

Count I, gross negligence; Count II, violation of 42 U.S.C. § 1983 (excessive force); Count III, assault and battery; and Count IV, violation of 42 U.S.C. § 1983 (municipal liability).

While alleged violations of 42 U.S.C. § 1983 are cognizable in this court pursuant to 28 U.S.C. § 1331, the remaining allegations present claims based on state law. Since the parties to this matter are not diverse, this court declines to exercise supplemental jurisdiction over the latter claims so as to avoid jury confusion. See 28 U.S.C. § 1337(c); United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994).

Accordingly, it is hereby **ORDERED** that Counts I and III of Plaintiff's complaint are **DISMISSED**.

s/John Corbett O'Meara
United States District Judge

Date: February 28, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, February 28, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager